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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO.       |
|---|-------------|----------------------|---------------------------|------------------------|
| 10/553,508  | 10/14/2005  | Kenji Morimoto       | OKUDP0137US               | 7432                   |
| 51921   | 7590        | 12/26/2008           |                           |                        |
| MARK D. SARALINO (PAN)<br>RENNER, OTTO, BOISSELLE & SKLAR, LLP<br>1621 EUCLID AVENUE<br>19TH FLOOR<br>CLEVELAND, OH 44115 |             |                      | EXAMINER<br>KHAN, ASHER R |                        |
|   |             |                      | ART UNIT<br>2621          | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>12/26/2008   | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/553,508 | <b>Applicant(s)</b><br>MORIMOTO ET AL. |  |
|                              | <b>Examiner</b><br>ASHER KHAN        | <b>Art Unit</b><br>2621                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/14/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |



## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**2. Claim 1, 2, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,532,336 B2 to Maruyama et al. "Maruyama" in view of U.S. Patent pub. 6,654,500 B1 to Lyu.**

As to claims 1 and 10, Maruyama discloses a data processor for. playing back a content while acquiring a data stream including content data (Fig. 11, 82; Col. 13, lines 19-25), the data stream being consisted of a plurality of packets, each said packet including the content data and an identifier to show the type of the content data (fig. 12, 881 or 901 or 891 or 911), a portion of the content data corresponding to the top of a playback unit (video or audio or sub-picture) having a header showing the identity of the playback unit (video or audio or sub-picture), the data processor comprising: a stream extracting section for acquiring a first data stream (Fig. 11, first video object unit ) and then a second data stream (fig. 11, second video object unit); a packet inserting section (Col. 26, lines 7-15), which makes a dummy packet, having a dummy identifier (Fig. 12, 891; Dummy identifier) that is different from any of the identifiers of the packets, and which inserts the dummy packet between the last packet of the first data stream and the first packet of the second data stream (Fig. 11, Dummy

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Pack at the end of video object unit (85) and before the beginning of next video object unit (85));

a splitting section for splitting the content data into respective types according to the identifiers (Fig. 19, Separator 63);

a decoder, which plays back the content data on the basis of the playback unit (Fig. 19; splits audio and video data).

Maruyama does not expressly disclose inserting error data, which is different from the content data, upon the detection of the dummy identifier and on detecting the error data, discards incomplete content data at the end of the first data stream and a portion of the content data of the second data stream up to the first header thereof such that those content data are not played back.

Lyu discloses inserting error data, which is different from the content data, upon the detection of the dummy identifier and on detecting the error data, discards incomplete content data at the end of the first data stream and a portion of the content data of the second data stream up to the first header thereof such that those content data are not played back (Col. 3, lines 17-35; mentions of making error correction and inserting error code and would have been obvious to one with ordinary skill in the art to do error correction after making sure new stream has started to be played i.e. dummy identifier has been detected; Also it would have been obvious to one skill in the art to discard the data for the portion of the error).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine Maruyama with the teachings of Lyu. Rationale to combine would

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have been that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As to claims 2 and 11, Maruyama does not expressly disclose but Lyu further discloses wherein an error code, representing an error, is predefined for the data stream, and wherein the splitting section (DEMUX 11) inserts the error code as the error data (Col. 3, lines 35-45).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine Maruyama with the teachings of Lyu. Rationale to combine would have been that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As to claims 4,5, 13 and 14, Maruyama does not expressly disclose but Lyu further discloses wherein the data representing the content has been encoded by a variable length coding technique (Col. 1, lines 13-35; MPEG data is compressed i.e. encoded using VLC) and is included in the data stream, and wherein the splitting section (Demux 11) inserts a bit string (Video\_req signal), of which the bit length is equal to a maximum code length (Fig. 3a, signal of the length of over flow) used in the variable length coding technique (Col. 3, lines 7-45).

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At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine Maruyama with the teachings of Lyu. Rationale to combine would have been that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As to claims 7 and 16, Maruyama further discloses, wherein the stream extracting section acquires mutually different portions of a single data stream (Fig. 11, 83), representing the same content, as the first ( Fig. 11, first video object unit) and second data (Fig. 11, second video object unit) streams, respectively.

As to claims 8 and 17, Maruyama further discloses, wherein the stream extracting section acquires the first and second data streams from a storage medium (Fig. 11 is partial data structure of the optical disc 11).

As to claims 9 and 18, Maruyama further disclose, wherein the stream extracting section acquires the first and second data streams that have been broadcast. (Col. 25, lines 20-25)

**3. Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,532,336 B2 to Maruyama et al. "Maruyama" in view of U.S. Patent pub. 6,654,500 B1 to Lyu and in further view of Official Notice.**

As to claims 3 and 12, Lyu further discloses wherein the splitting section further inserts a bit string of zeros having a predetermined length (Video-req signal of "1"; It is obvious to one skill in the art to choose either "1" or "0" to be and

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identifier for error; Col. line 26-45) as the error data, and wherein when detecting the error code, the decoder determines that the error data has been detected (Fig. 3a; Col. 4, lines 28-49).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine Maruyama with the teachings of Lyu. Rationale to combine would have been that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Lyu fails to teach strings of zeros as error code. However Official Notice is taken of the fact that it is very well known in the art to use "1" or "0" to identify something in digital system, such as here applicants use string of zeros to denote error code. It would have been the choice of design to choose either 1 or 0 to identify an error. Therefore taking the combined teaching of Lyu and Official Notice, it would be obvious to one skilled in the art at the time of invention to have been motivated to choose either 1 or 0 to represent an error so that it can be expressed that an error has occurred in the stream.

**4. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,532,336 B2 to Maruyama et al. "Maruyama" in view of U.S. Patent pub. 6,654,500 B1 to Lyu and in further view of U.S. Patent Pub. 2004/0109671 A1 to Kuno et al "Kuno".**

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As to claims 6 and 15, Maruyama as discussed in claim 1 above discloses wherein the stream extracting section acquires the first (Fig. 11, first video object unit) and second data streams (Fig. 11, second video object unit) but does not expressly disclose each being consisted of transport stream packets.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine Maruyama with the teachings of Lyu. Rationale to combine would have been that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Kuno discloses streams being consisted of transport stream packets (0103).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to combine Maruyama as modified with the teachings of Kuno. Rationale to combine would have been that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ASHER KHAN whose telephone number is (571)270-5203. The examiner can normally be reached on 9:00 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571)272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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